

FLOYD G. BROWN

IBLA 78-313

Decided May 15, 1978

Appeal from a decision of the California State Office, Bureau of Land Management, rejecting recordation notices and declaring mining claim MC 2099 null and void and millsite MC 2098 null and void.

Affirmed.

1. Mining Claims: Lands Subject to -- Mining Claims: Millsites --
Mining Claims: Withdrawn Land -- Withdrawals and Reservations:
Generally
A mining claim or millsite located on land at a time when the land is withdrawn from mineral location is properly declared null and void.

APPEARANCES: Floyd G. Brown, pro se.

OPINION BY ADMINISTRATIVE JUDGE RITVO

Floyd G. Brown has appealed from a decision of the California State Office, Bureau of Land Management (BLM), rejecting his notices of recordation for the Veva Queen Millsite MC 2098 and Veva Queen Lode Mining Claim MC 2099 and holding the millsite and mining claim null and void.

The State Office found:

On April 25, 1977, location notices for the above-named mining claims were filed in this office for recordation under Sec. 314 of the Act of October 21, 1976 (43 USC 1744; 43 CFR 3833). The lode claim was located August 27, 1972 and the notice of location recorded in Book 1333, Page 662 of Official Records of Imperial County. The mill site claim was located May 5, 1975 and the notice of location recorded in Book 1374, Page 1119 of Official Records of Imperial County. Both

claims were located by the party named herein and are situated in Sec. 14, T. 15 S., R. 20 E., San Bernardino Meridian.

According to the official records of this office all of Sec. 14, together with other lands, was withdrawn from all forms of entry or disposition under the public land laws including the mining laws by Secretarial Order of September 10, 1940, for the All American Canal, a Bureau of Reclamation Project.

Therefore, the lands in the Veva Queen Mill Site and the Veva Queen No. one (#1) Lode Mining Claim were not subject to location on the dates of the attempted locations. The attempted locations of the claims are hereby declared null and void ab initio -- without legal effect from the beginning, and the notices of location rejected. The \$10 service fee for recordation will be refunded by U.S. Treasury Check.

On appeal the appellant alleges the decision is in error, but has not furnished any particulars as to such error.

[1] A mining claim located on land which is not open to such location confers no right on the locator and is properly declared null and void ab initio. Mark V. Boone et al., 33 IBLA 32 (1977); United States v. Cuneo, 15 IBLA 304, 81 I.D. 262 (1974). Accordingly, appellant's claims were properly declared null and void and recordation notices rejected.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Martin Ritvo
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Frederick Fishman
Administrative Judge

